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EXAMINER	
LIVERSEDGE, JENNIFER L	

ART UNIT	PAPER NUMBER
3692	

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/851,895	Applicant(s) D'LOREN, ROBERT W.	
	Examiner Jennifer Liversedge	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 September 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18,20-40 and 42-46* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18,20-40 and 42-46* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This Office Action is responsive to Applicant's amendment and request for reconsideration of application 09/851,895 filed on May 9, 2006.

The amendment contains original claims: 25-26.

The amendment contains amended claims: 1-18, 20-24, 27-40, 42-46.

Claims 19 and 41 have been canceled.

Claim Objections

Claim 25 is objected to because of the following informalities: the preamble refers to "A method for making preparing documentation…". Examiner suggests the claim should refer to either making or preparing or should refer to making/preparing. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3, 5-13, 15-18 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,154,730 to Adams (further referred to as Adams), and further in view of Pub. No. US 2001/0042034 A1 to Elliott (further referred to as Elliott).

Regarding claims 1 and 20, Adams discloses a computer-based method and system for managing at least one intangible asset having an associated cash flow (column 1, lines 6-11 and lines 40-51), comprising:

a) receiving rights to the at least one intangible asset, the rights being collected and pooled according to a computer estimate of cash flows expected to be generated by the at least one intangible asset, wherein the respective cash flows are effectively removed from the original owner's bankruptcy estate (column 1, lines 40-60);

b) granting the received rights to a first entity, in exchange for payments, wherein the grant of rights comprises target performance (column 1, lines 60-64; column 2, lines 56-65; column 3, lines 20-31); and

c) monitoring the first entity for compliance with the grant of rights in step b (column 3, lines 38-50 and column 4, lines 25-40).

Adams does not disclose where the payments are royalty payments and wherein grant of rights comprises default provisions.

However, Elliott discloses where the payments are royalty payments (page 5, paragraph 55). It would be obvious to one of ordinary skill in the art to combine the royalty payments as disclosed by Elliott with the payments as disclosed by Adams. The motivation would be that both methods involve the payment of funds by an operating entity to a special purpose legal entity for the use of intangible assets which were sold from the operating entity to the special purpose legal entity, and this process is old and well known as being termed royalty payments.

Further, Elliott discloses wherein grant of rights comprises default provisions (page 1, paragraph 5). It would be obvious to one of ordinary skill in the art to combine the use of default provisions as disclosed by Elliott with the financing through securitization as disclosed by Adams. The motivation would be to provide investors with a prospect of protecting their investment by offering a provision should the operating entity default.

Regarding claim 21, Adams discloses a computer-based system for managing at least one intangible asset of a business enterprise, comprising:

a) means for generating a projection for one or more sources of future cash flows expected to be generated by the at least one intangible asset of the business enterprise (column 1, lines 41-51), the projection being based at least in part on information obtained from third-party sources (column 3, lines 5-19);

b) means for providing a cash flow estimate expected to be generated by the at least one intangible asset based on the projection for one or more sources, and

identifying ownership rights associated with the projected one or more sources (column 3, lines 5-19);

c) means for transferring the identified ownership rights to at least one separate legal entity, in a manner that effectively removes the respective cash flow(s) from the business enterprise's bankruptcy estate (column 1, lines 54-57);

d) means for granting the ownership rights to an operating entity on behalf of the at least one separate legal entity, in exchange for payments, wherein the grant of rights comprises target performance (column 1, lines 60-64; column 2, lines 56-65; column 3, lines 20-31);

e) means for issuing securities on behalf of the at least one separate legal entity using the pooled rights as collateral (column1 ,lines 59-60 and column 2, lines 48-58);

f) means for employing revenue generated from issuing the securities to finance at least a portion of operating costs of the business enterprise (column 1, lines 61-64).

Adams does not disclosed a computerized network of devices or a telecommunications network. However, Elliott discloses a computerized network of devices or a telecommunications network (page 5, paragraphs 64-65). It would be obvious to one of ordinary skill in the art to combine the use of a network and telecommunications for sharing third party data as disclosed by Elliott with the system for obtaining third-party data as disclosed by Adams. The motivation would be to use an old and well known, fast, efficient, and real-time method for gathering data from third-parties.

Adams does not disclose where the payments are royalty payments and wherein grant of rights comprises default provisions.

However, Elliott discloses where the payments are royalty payments (page 5, paragraph 55). It would be obvious to one of ordinary skill in the art to combine the royalty payments as disclosed by Elliott with the payments as disclosed by Adams. The motivation would be that both methods involve the payment of funds by an operating entity to a special purpose legal entity for the use of intangible assets which were sold from the operating entity to the special purpose legal entity, and this process is old and well known as being termed royalty payments.

Further, Elliott discloses wherein grant of rights comprises default provisions (page 1, paragraph 5). It would be obvious to one of ordinary skill in the art to combine the use of default provisions as disclosed by Elliott with the financing through securitization as disclosed by Adams. The motivation would be to provide investors with a prospect of protecting their investment by offering a provision should the operating entity default.

Regarding claim 2, Adams discloses the method wherein the computer estimate is based in historical data related to usage of the at least one intangible asset (column 3, lines 5-20).

Regarding claim 3, Adams does not disclose wherein the at least one intangible asset comprises one or more patents. However, Elliott discloses wherein the at least

one intangible asset comprises one or more patents (page 1, paragraphs 7 and 9). It would be obvious to combine the use of patents as disclosed by Elliott with the securitization as disclosed by Adams. The motivation would be that any source of future income, based on tangible or intangible assets, can be securitized for the structuring and obtaining of funds.

Regarding claim 5, Adams discloses the method wherein the at least one intangible asset comprises a business brand (column 1, lines 12-38; column 2, lines 34-40).

Regarding claim 6, Adams discloses the method wherein the computer estimate is based on a computer model of (license) revenues derived from the at least one intangible asset and projected over a pre-determined time period in one or more geographic locations (column 3, lines 5-19).

Regarding claim 7, Adams discloses the method wherein the computer estimate is further based on a comparison of the computer model to the historical data (column 3, lines 5-19 and lines 38-50).

Regarding claim 8, Adams discloses the method wherein the computer estimate is further based on a correction to the computer model based on the results of the comparison (column 3, lines 38-50).

Regarding claim 9, Adams discloses the method wherein the collecting and pooling of rights is performed based on a provided computer estimate of sources of future cash flow (column 1, lines 41-54).

Regarding claim 10, Adams discloses the method wherein granting the rights comprises a step of restructuring designed to create the first entity to which the rights to the at least one intangible asset are granted (column 1, lines 54-64; column 4, lines 12-15).

Regarding claim 11, Adams does not disclose the method wherein receiving the rights is a true purchase. However, Elliott discloses the method wherein receiving the rights is a true purchase (page 2, paragraph 22; page 3, paragraph 31; page 4, paragraph 42; page 6, paragraph 96). It would be obvious to one of ordinary skill in the art to combine the use of a true sale as disclosed by Elliott with the securitization as disclosed by Adams. The motivation would be that use of loans and sales can be implemented in raising funds related to securitization.

Regarding claim 12, Adams discloses the method further comprising the step of procuring proceeds for the true purchase by loan (column 2, lines 52-58).

Regarding claim 13, Adams discloses the method further comprising a step of forming a special purpose entity for managing the received rights to the at least one intangible asset (column 4, lines 12-40).

Regarding claim 15, Adams does not disclose the method further comprising a step of granting the rights associated with the at least one intangible asset to a second entity in an event of default of the first entity. However, Elliott discloses the method further comprising a step of granting the rights associated with the at least one intangible asset to a second entity in an event of default of the first entity (page 1, paragraph 5; page 2, paragraph 20; page 3, paragraph 23). It would be obvious to one of ordinary skill in the art to combine granting rights in the case of a default as disclosed by Elliott with the system of rights guarantee as disclosed by Adams. The motivation would be that the guarantor would expect assts in return should a default occur and granting the guarantor the rights would create an incentive for the guarantor to provide such guarantee services.

Regarding claim 16, Adams discloses the method wherein the pooled and collected rights are made available to a lender (column 1, lines 58-60; column 2, lines 48-56).

Regarding claim 17, Adams discloses the method further comprising a step of employing the proceeds from the loan to finance at least a portion of an operating cost of the rights' original owner (column 1, lines 61-64).

Regarding claim 18, Adams discloses the method further comprising a step of employing the proceeds from the loan to re-finance debt obligations of the rights' original owner (column 2, lines 34-45).

Regarding claim 22, Adams discloses the system further comprising means for predicting a likely dollar amount of the rights' respective cash flow and inherent risks of amounts less those cash flows being received (column 1, line 65 – column 2, line 2).

Regarding claim 23, Adams discloses the system further comprising means for ensuring that investors in the issued securities receive the maximum amount possible if cash flows are less than expected, and that they are insured or provided a credit enhancement against the risk of flows being less than expected (column 2, lines 2-9).

Claims 27-29, 31-36, 38-40 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams and Elliott and further in view of "We're in the money" by Linda Lord (further referred to as Lord).

Regarding claims 27 and 42, Adams discloses a computer-based method and system for optimizing a use of at least one intangible asset associated with a business enterprise by a lender (column 1, lines 7-11 and lines 40-64), comprising:

a) providing a computer estimate of present value associated with the at least one intangible asset of the business enterprise, (column 1, lines 46-54; column 2, lines 48-56);

c) effecting the transfer of rights in the at least one intangible asset of the business enterprise to at least one second special purpose legal entity, distinct from the first special purpose legal entity, in a manner that effectively removes the asset from the business enterprise's bankruptcy estate (column 1, lines 54-58);

d) financing the second special purpose entity in exchange for a first priority lien on the at least one intangible asset (column 1, lines 59-60); and

e) establishing a transaction waterfall, wherein proceeds from licensing rights to the use of the at least one intangible asset are provided to the first special purpose legal entity (column 2, lines 59-65).

Adams does not disclosed a computerized network of devices or a telecommunications network. However, Elliott discloses a computerized network of devices or a telecommunications network (page 5, paragraphs 64-65). It would be obvious to one of ordinary skill in the art to combine the use of a network and telecommunications for sharing third party data as disclosed by Elliott with the system for obtaining third-party data as disclosed by Adams. The motivation would be to use

an old and well known, fast, efficient, and real-time method for gathering data from third-parties.

Neither Adams nor Elliott disclose:

b) transferring assets corresponding to the provided computer estimate to a first special purpose legal entity in a manner that effectively removes the transferred assets from the lender's bankruptcy estate.

However, Lord discloses transferring assets corresponding to the provided computer estimate to a first special purpose legal entity in a manner that effectively removes the transferred assets from the lender's bankruptcy estate (page 2).

It would be obvious to one of ordinary skill in the art at the time of the invention to modify the method of transferring intangible assets through a special purpose legal entity from a business enterprise as disclosed by Adams and Elliott to adapt the use of a second special purpose legal entity to then transfer the intangible assets through a special purpose legal entity from the lender as disclosed by Lord. The motivation would be that just as the business enterprise was seeking to gain cash by transferring the intangible assets, banks at times require additional cash and would be looking for a subsequent special purpose legal entity to which they could transfer the intangible assets for cash.

Regarding claim 28, Adams discloses the method wherein the computer estimate is based in historical data related to usage of the at least one intangible asset (column 3, lines 5-20).

Regarding claim 29, Adams does not disclose wherein the at least one intangible asset comprises one or more patents. However, Elliott discloses wherein the at least one intangible asset comprises one or more patents (page 1, paragraphs 7 and 9). It would be obvious to combine the use of patents as disclosed by Elliott with the securitization as disclosed by Adams. The motivation would be that any source of future income, based on tangible or intangible assets, can be securitized for the structuring and obtaining of funds.

Regarding claim 31, Adams discloses the method wherein said one or more intangible assets comprise a business brand (column 1, lines 12-38; column 2, lines 34-40).

Regarding claim 32, Adams discloses the method wherein step (a) comprises generating a computer model of (license) revenues derived from the intangible assets and projected over the pre-determined time period in one or more geographic locations (column 3, lines 5-19).

Regarding claim 33, Adams discloses the method wherein step (a) further comprise comparing the generated computer model to historical data associated with licensing similar intangible assets by one or more business entities (column 3, lines 5-

19 and lines 38-50), and correcting the computer model based on the comparison (column 3, lines 38-50).

Regarding claim 34, neither Adams nor Elliott disclose the method wherein step (c) comprises a step of business restructuring designed to create at least one second legal entity and at least one operating entity. However, Lord discloses the method wherein step (c) comprises a step of business restructuring designed to create at least one second legal entity and at least one operating entity (page 2). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the method of transferring intangible assets through a special purpose legal entity from a business enterprise as disclosed by Adams and Elliott to adapt the use of a second special purpose legal entity to then transfer the intangible assets through a special purpose legal entity from the lender as disclosed by Lord. The motivation would be that just as the business enterprise was seeking to gain cash by transferring the intangible assets, banks at times require additional cash and would be looking for a subsequent special purpose legal entity to which they could transfer the intangible assets for cash.

Regarding claim 35, Adams does not disclose the method wherein step (c) is accomplished by a true sale to the third-party operating entity. However, Elliott discloses the method wherein step (c) is accomplished by means of a true sale to the third-party operating entity (page 2, paragraph 22; page 3, paragraph 31; page 4, paragraph 42; page 6, paragraph 96). It would be obvious to one of ordinary skill in the

art to combine the use of a true sale as disclosed by Elliott with the securitization as disclosed by Adams. The motivation would be that use of loans and sales can be implemented in raising funds related to securitization.

Regarding claim 36, Adams discloses the method wherein step (c) further comprises a step of forming a special purpose third-party entity for managing the transferred rights to the at least one intangible asset (column 4, lines 12-40). Adams does not disclose where the name Manager is given, but the function and operation is to manage and it would therefore be obvious to one of ordinary skill in the art that the term manager could be used.

Regarding claim 38, Adams does not disclose the method further comprising a step of granting the rights associated with the at least one intangible asset to a separate operating entity in an event of default. However, Elliott discloses the method further comprising a step of granting the rights associated with the at least one intangible asset to a separate operating entity in an event of default (page 1, paragraph 5; page 2, paragraph 20; page 3, paragraph 23). It would be obvious to one of ordinary skill in the art to combine granting rights in the case of a default as disclosed by Elliott with the system of rights guarantee as disclosed by Adams. The motivation would be that the guarantor would expect assts in return should a default occur and granting the guarantor the rights would create an incentive for the guarantor to provide such guarantee services.

Regarding claim 39, Adams discloses the method comprising a step of effecting an issuance of securities by the first special purpose entity using the rights in the at least one intangible asset as collateral (column 1, lines 58-60; column 2, lines 48-56).

Regarding claim 40, Adams discloses the method further comprising the step of employing the proceeds from the financing step (d) to re-finance debt obligations of the business enterprise (column 1, lines 61-64).

Regarding claim 43, Adams discloses the system further comprising a means for predicting a likely dollar amount of the rights' future cash flow and inherent risks of amounts less those cash flow being received (column 1, line 65 – column 2, line 2).

Regarding claim 44, Adams discloses the system further comprising a means for issuing securities on behalf of the first special purpose vehicle, using as collateral rights in the at least one intangible asset (column 1, lines 58-60).

Regarding claim 45, Adams discloses the system further comprising means for ensuring that investors in the securities receive the maximum amount possible if the rights' respective cash flow are less than expected, and that they are insured or provided credit enhancement against such risk (column 2, lines 2-9).

Claims 25-26 are rejected under 35 U.S.C. 103(a) as being anticipated by Pub No. US 2001/0042034 A1 to Elliott (further referred to as Elliott).

Regarding claim 25, Elliott discloses a method for making/preparing documentation concerning a computed market-based valuation for at least one intangible asset of a business enterprise (page 5, paragraphs 50 – 81), the method including:

Directing a digital computer processor to manipulate electrical signals to prepare a document corresponding to at least one intangible asset of a business enterprise being separated from the assets of the business enterprise in accordance with terms in the document (page 8, paragraph 131), and the document is made by steps comprising

Storing in an electronic memory electrical signals representing a computer valuation of future cash flow expected to be generated by said at least one intangible asset (page 6, paragraph 88; page 7, paragraph 122); storing in an electronic memory electrical signals representing the identify of a party being granted the exclusive rights to said at least one intangible asset (page 8, paragraph 131-134);

Wherein the document comprises at least two of the following: the identity of a legal entity designated to manage said at least one intangible asset to generate license revenues; the amount of license revenues to be generated from said at least one intangible asset over a pre-determined period of time; manufacturing and sourcing terms indicated obligations to manufacture and distribute products under a license to

the rights of using said at least one intangible asset; and default provisions (page 1, paragraph 5; page 2, paragraphs 18 and 20; page 5, paragraphs 53-56; page 6, paragraph 96-98; page 8, paragraph 134).

Elliott does not disclose printing the document at a printer device operably connected to the computer. However, the Examiner takes Official Notice that it is old and well known to print documents to a printer device operably connected to a computer.

Regarding claim 26, Elliott discloses the method further comprising the steps of controlling the digital computer processor to manipulate electrical signals to prepare a second document corresponding to a financial agreement associated with the at least one intangible asset of the business enterprise (page 8, paragraph 130-132), said second document comprising at least two of the following: the identity of a legal entity providing financing in exchange for a first priority lien on the at least one intangible asset; the terms of the financing agreement over a predetermined period of time projected in the future; and default provisions (page 1, paragraph 5; page 2, paragraphs 18 and 20; page 5, paragraphs 53-56; page 6, paragraph 96-98; page 8, paragraph 134).

Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams and Elliott as applied to claim 1, and further in view of Pub. No. US 2002/0023034 A1 to Brown et al. (further referred to as Brown).

Regarding claim 4, neither Adams nor Elliott disclose the method wherein the at least one intangible asset comprises one or more trademarks. However, Brown discloses the method wherein the at least one intangible asset comprises one or more trademarks (page 1, paragraph 1). It would be obvious to one of ordinary skill in the art to combine the use of trademarks as disclosed by Brown with the securitization of intangible assets as disclosed by Adams and Elliott. The motivation would be that trademarks are one of many forms of intangible assets held by companies which could be used as part of a financing operation.

Regarding claim 14, neither Adams nor Elliott disclose the method wherein granting the rights is an arms length agreement. However, Brown discloses the method wherein granting the rights is an arms length agreement. It would be obvious to one of ordinary skill in the art to combine the use of an arms length as disclosed by Brown with the securitization of intangible assets as disclosed by Adams and Elliott. The motivation would be create a system in which intangible assets were exchanged in a confidential manner, thus protecting the interests of parties both buying and selling rights and interests.

Claims 30 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams, Elliott and Lord as applied to claim 27 above, and further in view of Pub. No. US 2002/0023034 A1 to Brown et al. (further referred to as Brown).

Regarding claim 30, neither Adams, Elliott nor Lord disclose the method wherein the at least one intangible asset comprises one or more trademarks. However, Brown discloses the method wherein one or more intangible assets comprise a portfolio of one or more trademarks (page 1, paragraph 1). It would be obvious to one of ordinary skill in the art to combine the use of trademarks as disclosed by Brown with the securitization of intangible assets as disclosed by Adams, Elliott and Lord. The motivation would be that trademarks are one of many forms of intangible assets held by companies which could be used as part of a financing operation.

Regarding claim 37, neither Adams, Elliott nor Lord disclose the method wherein step (c) is performed by an arms length agreement. However, Brown discloses the method wherein step (c) is performed by means of an arms length agreement. It would be obvious to one of ordinary skill in the art to combine the use of an arms length as disclosed by Brown with the securitization of intangible assets as disclosed by Adams, Elliott and Lord. The motivation would be create a system in which intangible assets were exchanged in a confidential manner, thus protecting the interests of parties both buying and selling rights and interests.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams and Elliott as applied to claim 23 above, and further in view of "Securitization as a

Funding Strategy" by Joseph Rizzi and Michael Maza in Corporate Finance, Oct. 1994 (further referred to as Rizzi).

Adams discloses the system wherein credit enhancements to increase the likelihood that investors will receive the cash flows to which they are entitled (column 2, lines 2-6; column 3, lines 63-67; column 4, lines 9-12). Neither Adams nor Elliott disclose wherein the credit enhancements comprise internal and external credit supports. However, Rizzi discloses wherein the credit enhancements comprise internal and external credit supports (page 2, lines 37-45). It would be obvious to one of ordinary skill in the art to combine the use of internal and external credit enhancements as disclosed by Rizzi with the securitization of intangible assets as disclosed by Adams and Elliott. The motivation would be to use both sources of credit enhancements to create an investment opportunity which is attractive to potential investors.

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams, Elliott and Lord as applied to claim 45 above, and further in view of "Securitization as a Funding Strategy" by Joseph Rizzi and Michael Maza in Corporate Finance, Oct. 1994 (further referred to as Rizzi).

Adams discloses the system wherein credit enhancements to increase the likelihood that investors will receive the cash flows to which they are entitled (column 2, lines 2-6; column 3, lines 63-67; column 4, lines 9-12). Neither Adams, Elliott nor Lord disclose wherein the credit enhancements comprise internal and external credit supports. However, Rizzi discloses wherein the credit enhancements comprise internal

and external credit supports (page 2, lines 37-45). It would be obvious to one of ordinary skill in the art to combine the use of internal and external credit enhancements as disclosed by Rizzi with the securitization of intangible assets as disclosed by Adams, Elliott and Lord. The motivation would be to use both sources of credit enhancements to create an investment opportunity which is attractive to potential investors.

Response to Arguments

Applicant's arguments with respect to claims 1-18, 20-40 and 42-46 have been considered but are moot in view of the new ground(s) of rejection.

However, Examiner offers in response to arguments the following comments:

Applicant argues that Adams is not concerned with intangible assets. Examiner notes that Adams first discloses securitizing assets as a financing mechanism. Second, Adams is basing the financing on projected sources of future cash flows based on intangible assets in that Adams is basing the projected future cash flows on the popularity of the team, on fans loyalty in attending and then in purchasing concessions, merchandising, etc. This is an intangible asset as it does not represent physical assets and yet it is an asset for which an organization can obtain funding today based on determining a value of the projected future cash flows.

Regarding Elliott and the disclosure of default provisions, Examiner again cites page 1, paragraph 5 where Elliott discloses that a property interest can be acquired in the event that a default occurs. The intangible asset rights are used as collateral, as disclosed in Adams. It is old and well known that collateral is presented to a lender

such that in the event of a default, said collateral is available to offset the losses incurred by the lender by the default.

Regarding the elements contained in the documentation, Applicant has argued that simple and basic contractual information is not disclosed as included. However, Examiner has cited the same sections in Elliott as providing the basic information such as the legal entity designated to manage the intangible asset and default provisions are included. This information is common to a financial contract between parties.

Transferring of rights to a second special purpose entity is disclosed in the current Office Action as disclosed by Lord. The concept of transferring assets to a special purpose entity in order to in exchange receive required cash can occur between an unlimited number of organizations, as bundling and selling of loans is old and well known and as one special purpose entity buys loans from “Bank B” which bought the intellectual property from “Business Entity A”, “Bank B” may then transfer the intellectual property asset to “Bank C” when “Bank B” requires cash, etc.

Conclusion

Any inquiry concerning this communication should be directed to Jennifer Liversedge whose telephone number is 571-272-3167. The examiner can normally be reached on Monday – Friday, 8:30 – 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at 571-272-6777. The fax number for the organization where the application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer Liversedge

Examiner

Art Unit 3692

RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER